

REMARKS

Initially, Applicants express appreciation to the Examiner for the detailed Official Action provided.

Upon entry of the present paper, claim 44 will have been amended. The herein-contained amendments should not be considered an indication of Applicants' acquiescence as to the propriety of the outstanding rejection. Rather, Applicants have amended claim 44 in order to advance prosecution and obtain early allowance of the claims in the present application.

Thus, claims 23, 25-34, 36-42, and 44 are pending in the present application and are submitted for reconsideration by the Examiner. Applicants address the rejections provided within the Official Action below and respectfully request reconsideration and withdrawal of the outstanding rejections pending in the present application together with an indication of the allowability of claims 23, 25-34, 36-42, and 44 (i.e., all pending claims) in the next Official communication. Such action is respectfully requested and is now believed to be appropriate for at least the reasons provided below.

35 U.S.C. § 112 Claim Rejection

In the outstanding Official Action, claim 44 was rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

In this regard, without agreeing to the propriety of the Examiner's rejection and solely to expedite the patent application process, Applicants have amended claim 44. Applicants submit that amended claim 44 is supported at least by the disclosure at: page 9, lines 13-19; page 14, lines 13-26; and Figure 6B of the application as filed (paragraphs

[0049], [0069], and [0070] of U.S. Pat. Appl. Pub. No. 2004/0077394). Thus, Applicants respectfully submit that the grounds for the rejection no longer exist, and the Examiner is respectfully requested to withdraw the rejection of claim 44 under 35 U.S.C. § 112.

35 U.S.C. § 102 Claim Rejections

In the outstanding Official Action, the Examiner rejected claims 23, 25-26, 28, 30, 32-34, and 37-42 under 35 U.S.C. § 102(b) as being anticipated by "Dorimaga" (Vol. 19., no. 20, allegedly circulated on September 14, 2002) (hereinafter "DORIMAGA#20"). In this regard, Applicants note that the circulation date of DORIMAGA#20 was listed on the Information Disclosure Statement that was filed on December 3, 2003 (hereinafter "the IDS") as September 15, 2002, and not September 14, 2002. As will be discussed below, the September 2002 date listed in the IDS was erroneous. Applicants further note that, on page 5 of the outstanding Official Action, the Examiner also discussed claim 36 as being anticipated by DORIMAGA#20. Accordingly, Applicants believe the Examiner intended to reject claims 23, 25-26, 28, 30, 32-34, and 36-42 as being anticipated by DORIMAGA#20. The Examiner also rejected claims 27, 29, and 31 under 35 U.S.C. § 103(a) as being unpatentable over DORIMAGA#20.

Applicants respectfully traverse the Examiner's rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103. In this regard, Applicants submit that the actual circulation date of DORIMAGA#20 is October 25, 2002, and not September 15, 2002 as asserted by the Examiner. In support of Applicants submission, Applicants submit concurrently herewith an affidavit under 37 C.F.R. § 1.132 of Eri Maruyama, the translator of DORIMAGA#20,

that sets forth that she inadvertently and incorrectly identified the publication date of DORIMAGA#20 as September 15, 2002, when it should have been October 25, 2002.

Initially, Applicants note that “Dorimaga” appears to be published by Softbank Publishing Inc. on a biweekly basis. Such a statement appears to be supported by the recitation of “bi-weekly” in the upper-left hand corner of page 176 of “Dorimaga” by Softbank Publishing Inc., vol. 19, no. 19 (hereinafter “DORIMAGA#19”) and by the recitation of “bi-weekly” in the upper-left hand corner of page 216 of “Dorimaga” by Softbank Publishing Inc., vol. 19, no. 18 (hereinafter “DORIMAGA#18”). Copies of the above-noted pages have been submitted herewith for review by the Examiner.

Applicants note that each publication of “Dorimaga” by Softbank Publishing Inc. includes a publication date and a circulation date. The circulation date appears to be the date on which the magazine becomes publicly available. The publication date is listed on the cover of each publication of “Dorimaga,” however, the circulation date does not appear to be listed on each publication of “Dorimaga.” Rather, the circulation date for each publication of “Dorimaga” is listed in the preceding publication of “Dorimaga.” For example, the date upon which DORIMAGA#20 was circulated is listed in DORIMAGA#19 and the date upon which DORIMAGA #19 was circulated is listed in DORIMAGA #18. With respect to the above, Applicants submit the following copies of the below-referenced documents for review by the Examiner:

- “Dorimaga” by Softbank Publishing Inc., vol. 19, no. 17 (hereinafter “DORIMAGA#17”) which has a publication date of September 27, 2002 and appears to have a circulation date of September 15, 2002 (*see* DORIMAGA#17, cover page and the IDS, page 2);
- DORIMAGA#18 which has a publication date of October 11, 2002 and appears to have a circulation date of September 27, 2002 (*see* DORIMAGA#18, cover page);

- DORIMAGA#19 which has a publication date of October 25, 2002 and a circulation date of October 11, 2002 (*see* DORIMAGA#19, cover page and DORIMAGA#18, page 216); and
- DORIMAGA#20 which has a publication date of November 8, 2002 and appears to have a circulation date of October 25, 2002 (*see* DORIMAGA#20, cover page and DORIMAGA#19, page 176).

In other words, the pertinent dates of the above-noted “Dorimaga” publications are:

<u>Publication</u>	<u>Publication Date</u>	<u>Circulation Date</u>
DORIMAGA#17	September 27, 2002	September 15, 2002
DORIMAGA#18	October 11, 2002	September 27, 2002
DORIMAGA#19	October 25, 2002	October 11, 2002
DORIMAGA#20	November 11, 2002	October 25, 2002

Thus, in view of the above, Applicants submit that the publication date (i.e., circulation date) of DORIMAGA#20 which the Examiner relied upon to reject Applicant’s claims is actually October 25, 2002, and not September 15, 2002 as listed on the IDS. Such a submission is supported as a result of “Dorimaga” being a biweekly publication. Furthermore, it is illogical that DORIMAGA#17 and DORIMAGA#20 would both have a circulation date of September 15, 2002 when DORIMAGA#18 and DORIMAGA#19 appear to have circulation dates of September 27, 2002 and September 11, 2002, respectively.

In addition to the above, Applicants note that the National Diet Library is the sole national library in Japan and consists of a collection of Japanese publications (*see* <http://www.ndl.go.jp/en/service/index.html>, visited February 19, 2009). The National Diet Library in Japan is analogous to the United State’s Library of Congress. The National Diet Library Law stipulates that copies of all new publications in Japan must be

sent to the National Diet Law under the Legal Deposit System (*see* <http://www.ndl.go.jp/en/help/faq.html>, visited February 19, 2009). In this regard, it appears that the National Diet Library catalogues each publication it receives by affixing a label, including a date, on the publication. The copies of the cover pages of DORIMAGA#18, DORIMAGA#19, and DORIMAGA#20 submitted herewith include such labels, and the dates printed on such labels are September 27, 2002, October 11, 2002, and October 25, 2002, respectively. These dates are in accordance with the circulation dates listed on page 216 of DORIMAGA#18 and page 176 of DORIMAGA#19, and are submitted as further evidence of the publication and circulation dates of DORIMAGA#20 and provide further evidence that the circulation date of DORIMAGA#20 is October 25, 2002, and not September 15, 2002 (as asserted by the Examiner).

For at least the reasons set forth above and the affidavit of Eri Maruyama, Applicants submit that DORIMAGA#20 has a publication date (i.e., circulation date) of October 25, 2002. Applicants note that the present application has a priority date of October 21, 2002. In this regard, and in order to expedite the allowance of the present application, Applicants submit herewith a verified translation of the priority Japanese Patent Application, thereby perfecting priority of the present application under 35 U.S.C. § 119 and removing DORIMAGA#20 as a reference under 35 U.S.C. § 102 and 35 U.S.C. § 103. Thus, Applicants respectfully submit that DORIMAGA#20 does not qualify as a valid prior art reference under 35 U.S.C. § 102(a) or 35 U.S.C. § 103(b). Accordingly, Applicants respectfully submit that claims 23, 25-34, 36-42, and 44 (i.e., all pending claims) cannot be anticipated or rendered obvious thereby.

In view of the above, Applicants respectfully submit that each and every pending claim of the present application (i.e., claims 23, 25-34, 36-42, and 44) meets the requirements for patentability. Accordingly, the Examiner is respectfully requested to withdraw the 35 U.S.C. § 102 and 35 U.S.C. § 103 rejections and to indicate the allowance of each and every pending claim in the present application in the next Official Communication.

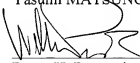
CONCLUSION


In view of the fact that none of the art of record, whether considered alone, or in any proper combination thereof, discloses or renders obvious the present invention, and in further view of the above remarks and amendments, reconsideration of the Examiner's action and allowance of the present application are respectfully requested and are believed to be appropriate.

Should the Commissioner determine that an extension of time is required in order to render this response timely and/or complete, a formal request for an extension of time, under 37 C.F.R. §1.136(a), is herewith made in an amount equal to the time period required to render this response timely and/or complete. The Commissioner is authorized to charge any required extension of time fee under 37 C.F.R. §1.17 to Deposit Account No. 19-0089.

If there should be any questions concerning this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
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March 2, 2009
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Encls: Verified Translation of Priority Document;
Affidavit Under 37 C.F.R. § 1.132 of Eri Maruyama;
“DORIMAGA” by Softbank Publishing Inc, volume 17, cover page;
“DORIMAGA” by Softbank Publishing Inc, volume 18, cover page and pg. 216;
“DORIMAGA” by Softbank Publishing Inc, volume 19, cover page and pg. 176; and
“DORIMAGA” by Softbank Publishing Inc, volume 20, cover page.